

1           1993 certainly -- so it appears to  
2           me that it's a great likelihood  
3           that MTBE has migrated offsite.

4   BY MR. ANDERSON:

5           Q.       And if it's migrated offsite, I  
6           assume your answer is the same as with the  
7           other focus stations we've discussed in terms  
8           of its meaningful -- significant/meaningful  
9           how you define --

10          A.       Oh, you're asking me about  
11          concentration --

12          Q.       Let me just back up and ask the  
13          cleaner question.

14                 The amount that you think is  
15          likely that has migrated offsite, do you  
16          think that amount is significant as you  
17          defined it?

18                 MR. SAWYER:   Same  
19          objections as before.

20                 Asked and answered.

21                 THE WITNESS:   My answer to  
22          that question here is the same as  
23          the question -- you asked that  
24          same question before for another

1 site.

2 And, yes, it's meaningful,  
3 insofar as it's certainly caused  
4 us to have to go to some length to  
5 further evaluate this site for the  
6 threat to drinking water supplies.

7 BY MR. ANDERSON

8 \*Q\* And as it relates to this  
9 particular site, does OCWD think that the  
10 MTBE has escaped remediation?

11 MR. SAWYER: Just -- he  
12 just asked and answered that.

13 He did it yesterday, and he  
14 did it today.

15 Court Reporter, could you  
16 please mark the question.

17 Vague and ambiguous.

18 Improper contention  
19 question.

20 I also object to the extent  
21 it constitutes an improper expert  
22 question.

23 Asked and answered.

24 THE WITNESS: Well, given

1           that there has been a release and  
2           that there was no groundwater --  
3           release of MTBE that got into  
4           groundwater, there's been no  
5           groundwater remediation -- I would  
6           say that this contamination has  
7           escaped the groundwater  
8           remediation.

9   BY MR. ANDERSON:

10           Q.       And is that amount that's  
11           escaped remediation, in OCWD's opinion,  
12           significant?

13                   MR. SAWYER:   Okay.

14                   You just asked that three  
15           times.

16                   I'm going to instruct the  
17           witness not to answer.   I'm  
18           getting fed up.

19                   MR. FINSTEN:   Are you  
20           instructing the witness?

21                   MR. SAWYER:   I haven't  
22           finished my objection.

23                   You can hold off a second.

24                   So I'm going to object

1 Q. You have that one listed;  
2 right?

3 A. Yes, I do.

4 Q. And it's 052389?

5 A. Yes, it is.

6 Q. I apologize for using the other  
7 one.

8 With respect to this particular  
9 release, have you seen any indication that  
10 this release included MTBE?

11 MR. SAWYER: Object.

12 Vague, ambiguous.

13 Lack of foundation.

14 Object to the extent it  
15 seeks improper expert-opinion  
16 testimony, and constitutes a  
17 contention question.

18 You can provide your  
19 personal observations, if you have  
20 any.

21 THE WITNESS: There's  
22 nothing on this document  
23 identifying MTBE.

24 MTBE was not tested

1 anywhere at the site until  
2 May 3rd, 1996, in well MW-7.

3 So I don't -- and it was  
4 first detected there at  
5 11,000 micrograms per liter. It's  
6 a pretty high detection, so it's  
7 likely it had been there before it  
8 was tested.

9 So, you know, MTBE -- my  
10 conclusion here is that MTBE had  
11 been released from the site  
12 sometime -- at the site somewhere  
13 at some time before that time.

14 I don't know what other  
15 releases would have occurred that  
16 included MTBE.

17 BY MS. ROY:

18 Q. All right.

19 If I could ask you to turn to  
20 the third page of your notes from  
21 Exhibit 189.

22 A. Okay.

23 Q. I think your blowup right there  
24 on the table is probably a much better copy

1 question.

2 Lack of foundation.

3 You can answer it, subject  
4 to those objections.

5 THE WITNESS: I haven't  
6 seen any document that  
7 specifically states that MTBE  
8 detected in this well, MW-7, is  
9 from this site, Exxon number 4283.

10 However, I can infer, from  
11 the location of MW-7, that it is  
12 at the north site margin of -- of  
13 this site. And that, based on the  
14 figure that we're looking at --  
15 that is, page 3 of my notes,  
16 Exhibit 189 -- shows that there is  
17 a northeasterly flow direction for  
18 groundwater at this site; and  
19 therefore, contamination in the  
20 well, likely, emanates from  
21 upgradient, which would be either  
22 the dispensers, or piping, or the  
23 USTs at this site, since they are  
24 very close to that well, and

1 about this with Exxon 4283.

2 Let's look at that  
3 station real quick to go over that -- those  
4 couple of questions.

5 So my first question to you is  
6 whether or not you think that MTBE escaped  
7 remediation at Exxon 4283?

8 MR. SAWYER: Same  
9 objections.

10 Asked and answered.

11 THE WITNESS: I do for very  
12 similar reasons.

13 I've inferred from  
14 detections reported in Exxon's  
15 consultants' reports,  
16 concentrations detected in offsite  
17 wells and site margin wells --  
18 let's see if I can find a specific  
19 reference.

20 There was actually free  
21 product at the site even as early  
22 as 1994, but that it wasn't until  
23 1999 was any remediation  
24 implemented that had an

1 effective -- I'm sorry.

2 Let me back up.

3 I say that free-product  
4 removal was initiated in 1994 --  
5 the free product was discovered at  
6 or prior to that time; and that it  
7 was subsequent to that that soil  
8 vapor extraction was initiated in  
9 October, '99, and then after that,  
10 dual-phase extraction -- which  
11 helped to lower the water a little  
12 bit to try and recover more mass,  
13 more contaminant mass -- that was  
14 initiated -- dual-phase extraction  
15 was initiated in 2004.

16 But given that  
17 contamination occurred long before  
18 that, and that there are  
19 detections of MTBE and TBA at site  
20 margin wells and offsite wells, it  
21 is apparent that groundwater  
22 contamination had escaped the site  
23 and that the contaminated  
24 groundwater was not being



1 contained or captured.

2 BY MS. ROY:

3 Q. And just to clarify -- I  
4 don't think my question was clear  
5 enough.

6 With respect to the property  
7 where Exxon 4283 used to be located, you  
8 don't know whether or not the MTBE that you  
9 believe has escaped came from a release while  
10 Exxon was operating the station, or while  
11 some other entity was operating at that  
12 location; am I correct?

13 MR. SAWYER: Objection.

14 Asked and answered, based  
15 on his prior testimony.

16 Calls for speculation.

17 Also seeks expert opinion,  
18 without adequate foundation or  
19 disputed facts.

20 THE WITNESS: I thought we  
21 did cover that.

22 But I did not note -- I  
23 don't know exactly what the  
24 ownership history is of the site,

1 confirm with the date that's on the letter;  
2 is that correct?

3 MR. SAWYER: I'm sorry.

4 What's the question?

5 THE WITNESS: The time  
6 stamped on the top -- are you  
7 talking about the stamp in the  
8 northeast corner, upper right  
9 corner?

10 BY MR. FINSTEN:

11 Q. Yes.

12 A. Is November 6, 2008, 5:20 P.M.

13 Q. And the time right now is?

14 A. Is approximately 3:20.

15 MR. FINSTEN: All right.

16 So we'll assume that's  
17 Eastern time, as they usually are.

18 All right.

19 Well, rather than question  
20 you on those because I haven't  
21 seen them, I will take your word  
22 for -- that they are what your  
23 notes have been prior.

24 So I'm going to mark the

1 next exhibit, which is 196, which  
2 is a copy of the notes that were  
3 produced yesterday or the day  
4 before.

5 MR. SAWYER: Thank you,  
6 sir.

7 - - -

8 (Whereupon, Exhibit 196, ARCO #1887  
9 report, was marked for identification)

10 - - -

11 BY MR. FINSTEN:

12 Q. Are these the notes that you  
13 produced for this station?

14 A. If you're referring to  
15 Exhibit 196, let me take a quick look.

16 (Brief pause)

17 Yes, I believe they are.

18 Q. All right.

19 Mr. Bolin, when did you become  
20 aware of station -- ARCO station 1887?

21 MR. SAWYER: The existence

22 or --

23 MR. FINSTEN: Yeah.

24 MR. SAWYER: Okay.

1                   You can provide any  
2           personal observations you have.

3                   THE WITNESS: I sure do.

4   BY MR. FINSTEN:

5           Q.       Does the District have any data  
6   that the contamination in 1887 has escaped  
7   remediation?

8                   MR. SAWYER: Same  
9           objections.

10                  THE WITNESS: Well, let's  
11           see.

12                  Currently, the groundwater  
13           flow, at least as of February 19  
14           and 20, 2008, is towards --  
15           from -- in the east part of the  
16           site, flows to the west; in the  
17           south part of the site, so it  
18           flows to the north.

19                  So it looks like there is a  
20           depression in the northeast corner  
21           of the site. Groundwater flows in  
22           that direction.

23                  However, there is  
24           contamination that's been detected

1 in offsite wells: BC-1 to the  
2 west, MW-17 to the south, MW-15 to  
3 the southeast; and at site margin  
4 wells: MW-3 to the east, MW-4 to  
5 the southeast.

6 BY MR. FINSTEN:

7 Q. And you are looking at --

8 A. The Delta report, figure 3,  
9 which is titled, "Groundwater Elevation  
10 Contour and Analysis Map, Upper Zone,  
11 February 19 and 20, 2008."

12 It is figure 3 of that same  
13 document -- same Delta document identified,  
14 dated April 20, 2008. The first document  
15 after tab 8.

16 Q. Would that be the same document  
17 as the third page in Exhibit 196?

18 A. Yes -- well, let me look at it  
19 and confirm.

20 Yes.

21 Q. Okay.

22 Let me just mark the wells that  
23 you mentioned.

24 MW-17, MW-15, and MW-3 and -4.

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 IN RE:

4 Methyl Tertiary Butyl: Master File No. 1:00-1898  
5 Ether ("MTBE") : MDL NO. 1358 (SAS)  
6 Products Liability : M21-88  
7 Litigation :  
8

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9 This Document Relates to:  
10 Orange County Water District  
11 v. Unocal Corporation, et al.,  
12 S.D.N.Y. No. 04 Civ. 4968 (SAS)  
13

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14 CONFIDENTIAL  
15 (Per 2004 MDL 1358 Order)

16 -----  
17 Friday, November 14, 2008  
18 -----  
19

20 Videotaped Deposition of DAVID P. BOLIN,  
21 Volume 13, OCWD'S 30(b)(6) DESIGNEE re Focus Plume  
22 10, held in the law offices of Latham & Watkins,  
23 650 Town Center Drive, Suite 2000, Costa Mesa,  
24 California, beginning at 9:16 a.m., before Sandra  
25 Bunch VanderPol, RPR, RMR, CRR, CSR #3032.

26 GOLKOW TECHNOLOGIES, INC.  
27 877.370.3377 ph|917.591.5672 fax  
28  
29 deps@golkow.com

1           A.       I think it's Goebel, G-O-E-B-E-L,  
2     Lane, I think.

3           Q.       So Goebel Lane, which is, again,  
4     further to the southwest, that was also nondetect on  
5     April 18th, 2008, correct?

6           A.       That's correct.

7           Q.       The next well that you refer to in  
8     your summary report is the farthest off-site well in  
9     the southwest direction in the lower semi-perched  
10    zone, S-1B; do you see that reference?

11          A.       Yes, I do.

12          Q.       That was also nondetect for MTBE in  
13    April 18, 2008, correct?

14          A.       That is correct. At whatever  
15    detection limit they are using. Again, we can't be  
16    certain what the number is.

17          Q.       Right. And then there's another  
18    off-site well more to the south, MW-15. That was  
19    also nondetect for MTBE on April 18th, 2008, correct?

20          A.       That's correct.

21          Q.       As you sit here today, Mr. Bolin, is  
22    it fair to say that you have no basis for saying that  
23    the MTBE contamination from the Four Star Venture  
24    site has actually commingled with any MTBE  
25    contamination from the Shell Station at 8990

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 \_\_\_\_\_ X

4 In re: Methyl Tertiary Butyl Ether  
5 ("MTBE") Products Liability Litigation

6 \_\_\_\_\_ X

7 Master File No. 1:00-1898

8 MDL No. 1358 (SAS)

9 M21-88

10 \_\_\_\_\_ X

11 CONFIDENTIAL (Per 2004 MDL 1358 Order)

12  
13 VIDEOTAPED 30(b)(6) DEPOSITION OF  
14 DAVID P. BOLIN RE FOCUS PLUMES 6, 8, AND 9  
15 November 21, 2008

16  
17 Taken at 650 Town Center Drive,  
18 20th Floor, Costa Mesa, California, before  
19 Harry A. Palter, California Certified  
20 Shorthand Reporter No. 7708, Certified  
21 LiveNote Reporter.

22  
23 GOLKOW TECHNOLOGIES, INC.  
24 877.370.3377 ph|917.591.5672 fax  
deps@golkow.com



1 THE WITNESS: No.

2 As I mentioned, I'm not a  
3 remediation technology expert, and  
4 so I -- I can't really suggest  
5 what kind of remediation  
6 technology should be conducted  
7 right now.

8 That's expertise that the  
9 District will have and will  
10 eventually make some  
11 determination, but to that effect,  
12 I don't have an answer now.

13 BY MS. ROY:

14 Q. Is it your view that in  
15 remediating this site, absolutely every  
16 molecule of MTBE or TBA should be removed?

17 MS. O'REILLY: Objection.

18 Overbroad.

19 Vague and ambiguous.

20 THE WITNESS: I'm not an  
21 expert in fate and transport  
22 analysis, so I don't know what  
23 concentration poses a threat to  
24 drinking water wells, but I

1 believe that there is -- or  
2 drinking water supplies.

3 But I believe there is a  
4 threat that exists right, here  
5 right now.

6 I don't know how much  
7 contamination has to be removed or  
8 contained to eliminate that  
9 threat. I don't know.

10 BY MS. ROY:

11 Q. Have you at all evaluated  
12 whether or not natural attenuation is  
13 occurring at this site?

14 MS. O'REILLY: Objection.  
15 Calls for expert opinion.

16 THE WITNESS: It depends on  
17 what you're calling "natural  
18 attenuation."

19 There -- if you're talking  
20 about degradation, I don't know  
21 whether degradation is occurring  
22 at the site.

23 There's been no discussion  
24 about degradation of the

1 most expeditious thing to do next.

2 I'll mark them as

3 Exhibit 256.

4 I'll mark my copy, and you

5 can keep the one that you've

6 highlighted on.

7 THE WITNESS: Okay.

8 - - -

9 (Whereupon, Exhibit 256, Notes re:

10 Mobil #18-668, was marked for

11 identification)

12 - - -

13 BY MS. ROY:

14 Q. Could you tell me what

15 Exhibit 256 is.

16 A. These are summary notes that I

17 prepared to prepare -- I prepared for today's

18 deposition to answer questions on Mobil

19 18-668.

20 Q. Okay.

21 And let's, first, walk

22 through the handwritten notes to make sure

23 that we're reading them correctly.

24 Once again, I see what I

1 believe is "FP" at the top; is that correct?

2 A. That is correct.

3 Q. So that's your notation to  
4 yourself that there was, at some point, free  
5 product?

6 A. That's correct.

7 Q. Okay.

8 Now, off to the right, about  
9 two inches or an inch down from the top of  
10 the page, I see some handwriting.

11 Can you tell me what that says?

12 A. I believe the handwriting I'm  
13 looking at says, "Offsite."

14 There's two -- two notes there.

15 Q. Okay.

16 A. Both of them say, "Offsite."

17 Q. And what is that are everything  
18 to?

19 A. The wells that are identified  
20 in bold print there.

21 Q. All right.

22 So is that a notation to you  
23 there is detections of MTBE and TBA offsite?

24 A. Detections of MTBE and TBA